

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

UNITED STATES OF AMERICA

VS.

CRIMINAL NO. 5:07-cr-7(DCB)(LRA)
CIVIL NO. 5:10-cv-34(DCB)

KEVIN DEWAYNE WILLIAMS

ORDER

This cause is before the Court on the petitioner Kevin Dewayne Williams' motion to strike his prior counsel's "affidavit" (**docket entry 46**). Having carefully considered the motion and the government's response, and being fully advised in the premises, the Court finds as follows:

The petitioner correctly points out that the "affidavit" submitted by his former counsel pursuant to court order is not in fact an "affidavit" because it bears no notary seal and therefore provides no assurance that it was signed on oath in the presence of a notary; nor does the "affidavit" comply with the format required by 28 U.S.C. § 1746 for an unsworn declaration under penalty of perjury:

Wherever, under any law of the United States or under any rule, regulation, order, or requirement made pursuant to law, any matter is required or permitted to be supported, evidenced, established, or proved by the sworn declaration, verification, certificate, statement, oath, or affidavit, in writing of the person making the same (other than a deposition, or an oath of office, or an oath required to be taken before a specified official other than a notary public), such matter may, with like force and effect, be supported, evidenced, established, or proved by the unsworn declaration, certificate,

verification, or statement, in writing of such person which is subscribed by him, as true under penalty of perjury, and dated, in substantially the following form:

(1) If executed without the United States: "I declare (or certify, verify or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature)".

(2) If executed within the United States, its territories, possessions, or commonwealth: "I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature)".

18 U.S.C. § 1746. Accordingly,

IT IS HEREBY ORDERED that the petitioner Kevin Dewayne Williams' motion to strike his prior counsel's "affidavit" (**docket entry 46**) is granted and the "affidavit" is stricken;

FURTHER ORDERED that the government furnish a copy of this Order to Sanford Knott, Esq., former counsel for the defendant in the above-referenced criminal proceedings, so that he may furnish an affidavit signed on oath in the presence of a notary, or, in lieu thereof, an unsworn declaration under penalty of perjury in compliance with 18 U.S.C. § 1746, within ten (10) days from the date of entry of this Order, said affidavit or unsworn declaration to be furnished to the government for filing in this cause within five (5) days from its receipt thereof.

SO ORDERED, this the 8th day of March, 2011.

/s/ David Bramlette
UNITED STATES DISTRICT JUDGE